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DISSERTATION
ON
FIRST-PRINCIPLES
OF
GOVERNMENT.

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AMERICAN WAR.

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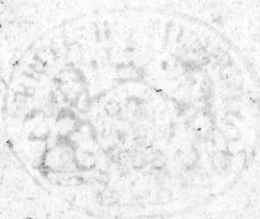
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THERE is no subject more interesting to every man than the subject of government. His security, be he rich or poor, and, in a great measure, his prosperity, is connected therewith; it is therefore his interest, as well as his duty, to make himself acquainted with its principles, and what the practice ought to be.

Every art and science, however imperfectly known at first, has been studied, improved, and brought to what we call perfection; by the progressive labours of succeeding generations; but the science of government has stood still. No improvement has been made in the principle, and scarcely any in the practice, till the American revolution began. In all the countries of Europe

(except in France) the same forms and systems, that were erected in the remote ages of ignorance still continue, and their antiquity is put in the place of principle; it is forbidden to investigate their origin or by what right they exist. If it be asked how has this happened, the answer is easy; they are established on a principle that is false, and they employ their power to prevent detection.

Notwithstanding the mystery with which the science of government has been enveloped, for the purpose of enslaving, plundering, and imposing upon mankind, it is of all things the least mysterious and the most easy to be understood. The meanest capacity cannot be at a loss, if it begins its enquiries at the right point. Every art and science has some point, or alphabet, at which the study of that art or science begins, and by the assistance of which the progress is facilitated. The same method ought to be observed with respect to the science of government.

Instead then of embarrassing the subject in the outset with the numerous subdivisions, under which different forms of government have been classed, such as aristocracy, democracy, oligarchy, monarchy, &c. the better method will be to begin with what may be called primary divisions, or those under which all the several subdivisions will be comprehended.

The primary divisions are but two.

First, government by election and representation.

Secondly, government by hereditary succession.

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All the several forms and systems of government, however numerous or diversified, class themselves under one or other of those primary divisions; for either they are on the system of representation, or on that of hereditary succession. As to that equivocal thing called mixed government, such as the late government of Holland, and the present government of England, it does not make an exception to the general rule, because the parts separately considered are either representative or hereditary.

Beginning then our enquiries at this point, we have first to examine into the nature of those two primary divisions. If they are equally right in principle, it is mere matter of opinion which we prefer. If the one be demonstratively better than the other, that difference directs our choice; but if one of them should be so absolutely false, as not to have a right to existence, the matter settles itself at once; because a negative proved on one thing, where two only are offered, and one must be accepted, amounts to an affirmative on the other.

The revolutions that are now spreading themselves in the world have their origin in this state of the case; and the present war is a conflict between the representative system, founded on the rights of the people, and the hereditary system, founded in usurpation. As to what are called Monarchy, Royalty, and Aristocracy, they do not, either as things or as terms, sufficiently describe the hereditary sys-

tem; they are but secondary things or signs of the hereditary system, and which fall of themselves if that system has not a right to exist. Were there no such terms as Monarchy, Royalty, and Aristocracy, or were other terms substituted in their place, the hereditary system, if it continued, would not be altered thereby. It would be the same system under any other titular name as it is now.

The character therefore of the revolutions of the present day distinguishes itself most definitively by grounding itself on the system of representative government, in opposition to the hereditary. No other distinction reaches the whole of the principle.

Having thus opened the case generally, I proceed, in the first place, to examine the hereditary system, because it has the priority in point of time. The representative system is the invention of the modern world; and that no doubt may arise as to my own opinion, I declare it before-hand, which is, *that there is not a problem in Euclid more mathematically true, than that hereditary government has not a right to exist. When therefore we take from any man the exercise of hereditary power, we take away that which he never had the right to possess, and which no law or custom could, or ever can, give him a title to.*

The arguments that have hitherto been employed against the hereditary system have been chiefly founded upon the absurdity of it, and its incom-

incompetency to the purpose of good government. Nothing can present to our judgment, or to our imagination, a figure of greater absurdity than that of seeing the government of a nation fall, as it frequently does, into the hands of a lad necessarily destitute of experience, and often little better than a fool. It is an insult to every man of years, of character, and of talent, in a country. The moment we begin to reason upon the hereditary system it falls into derision; let but a single idea begin, and a thousand will soon follow. Insignificance, imbecility, childhood, dotage, want of moral character; in fine, every defect, serious or laughable, unite to hold up the hereditary system as a figure of ridicule. Leaving however the ridiculousness of the thing to the reflections of the reader, I proceed to the more important part of the question, namely, whether such a system has a right to exist?

To be satisfied of the right of a thing to exist, we must be satisfied that it had a right to begin. If it had not a right to begin, it has not a right to continue. By what right then did the hereditary system begin? Let a man but ask himself this question, and he will find that he cannot satisfy himself with an answer.

The right which any man, or any family had to set itself up at first to govern a nation, and to establish itself hereditarily, was no other than the right which Robespierre had to do the same thing in France.

If he had none, they had none. If they had any, he had as much; for it is impossible to discover superiority of right in any family, by virtue of which hereditary government could begin. The Capets, the Guelphs, the Robespierres, the Marats, are all on the same standing as to the question of right. It belongs exclusively to none.

It is one step towards liberty, to perceive that hereditary government could not begin as an exclusive right in any family. The next point will be, whether, having once begun, it could grow into a right by the influence of time?

This would be supposing an absurdity; for either it is putting time in the place of principle, or making it superior to principle; whereas time has no more connection with, or influence upon principle, than principle has upon time. The wrong which began a thousand years ago, is as much a wrong as if it began to-day; and the rights which originates to-day, is as much a right as if it had the sanction of a thousand years. Time with respect to principles is an eternal NOW: it has no operation upon them: it changes nothing of their nature and qualities. But what have we to do with a thousand years? Our life-time is but a short portion to that period, and if we find the wrong in existence as soon as we begin to live, that is the point of time at which it begins to us; and our right to resist it, is the same as if it had never existed before.

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As hereditary government could not begin as a natural right in any family, nor derive after its commencement any right from time, we have only to examine whether there exist in a nation a right to set it up and establish it by what is called law, as has been done in England? I answer, NO; and that any law or any constitution made for that purpose is an act of treason against the rights of every minor in the nation, at the time it is made, and against the rights of all succeeding generations. I shall speak upon each of those cases. First, of the minor, at the time such law is made. Secondly, of the generations that are to follow.

A nation, in a collective sense, comprehends all the individuals of whatever age, from just born to just dying. Of these, one part will be minors, the other aged. The average of life is not exactly the same in every climate and country, but in general the minority in years are the majority in numbers, that is, the number of persons under twenty-one years, is greater than the number of persons above that age. This difference in number is not necessary to the establishment of the principle I mean to lay down, but it serves to shew the justice of it more strongly. The principle would be equally good, if the majority in years were also the majority in numbers.

The rights of minors are as sacred as the rights of the aged. The difference is altogether

gether in the different age of the two parties, and nothing in the nature of the rights; the rights are the same rights; and are to be preserved inviolate for the inheritance of the minors when they shall come of age. During the minority of minors their rights are under the sacred guardianship of the aged. The minor cannot surrender them; the guardian cannot dispossess him; consequently, the aged part of a nation, who are the law-makers for the *time being*, and who, in the march of life, are but a few years a head of those who are yet minors, and to whom they must shortly give place, have not and cannot have the right to make a law to set up and establish hereditary government, or, to speak more distinctly, *an hereditary succession of governors*; because it is an attempt to deprive every minor in the nation, at the time such a law is made, of his inheritance of rights when he shall come of age, and to subjugate him to a system of government, to which, during his minority, he could neither consent nor object.

If a person, who is a minor at the time such a law is proposed, had happened to have been born a few years sooner, so as to be of the age of twenty-one years at the time of proposing it, his right to have objected against it, to have exposed the injustice and tyrannical principles of it, and to have voted against it, will be admitted on all sides. If, therefore, the law operates to prevent his exercising the same rights after he comes of age

age as he would have had a right to exercise had he been of age at the time, it is, undeniably, a law to take away and annul the rights of every person in the nation who shall be a minor at the time of making such a law, and consequently the right to make it cannot exist.

I come now to speak of government by hereditary succession as it applies to succeeding generations; and to shew that in this case, as in the case of minors, there does not exist in a nation a right to set it up.

A nation, though continually existing, is continually in a state of renewal and succession. It is never stationary. Every day produces new births, carries minors forward to maturity, and old persons from the stage. In this ever-running flood of generations there is no part superior in authority to another. Could we conceive an idea of superiority in any, at what point of time, or in what century of the world, are we to fix it? To what cause are we to ascribe it? By what evidence are we to prove it? By what criterion are we to know it? A single reflection will teach us that our ancestors, like ourselves, were but tenants for life in the great freehold of rights. The fee-absolute was not in them, it is not in us, it belongs to the whole family of man, through all ages. If we think otherwise than this, we think either as slaves or as tyrants. As slaves, if we think that any former generation had a right to
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bind us ; as tyrants, if we think that we have authority to bind the generations that are to follow.

It may not be inapplicable to the subject, to endeavour to define what is to be understood by a generation in the sense the word is here used.

As a natural term its meaning is sufficiently clear. The father, the son, the grandson, are so many distinct generations. But when we speak of a generation as describing the persons in whom legal authority resides, as distinct from another generation of the same description who are to succeed them, it comprehends all those who are above the age of twenty-one years, at the time we count from ; and a generation of this kind will continue in authority between fourteen and twenty-one years, that is, until the number of minors, who shall have arrived at age, shall be greater than the number of persons remaining of the former stock.

For example, if France at this or any other moment, contain twenty-four millions of souls, twelve millions will be males, and twelve females. Of the twelve millions of males, six millions will be of the age of twenty-one years, and six will be under, and the authority to govern will reside in the first six. But every day will make some alteration, and in twenty-one years every one of those minors who survive will have arrived at age, and the greater part of the former stock will be gone : the majority of persons then living, in whom the
 legal

legal authority resides, will be composed of those who, twenty-one years before, had no legal existence. Those will be fathers and grandfathers in their turn, and in the next twenty-one years, (or less) another race of minors, arrived at age, will succeed them, and so on.

As this is ever the case, and as every generation is equal in rights to another, it consequently follows, that there cannot be a right in any to establish government by hereditary succession, because it would be supposing itself possessed of a right superior to the rest, namely, that of commanding by its own authority how the world shall be hereafter governed, and who shall govern it. Every age and generation is and must be (as a matter of right) as free to act for itself in all cases, as the age and generation that preceded it. The vanity and presumption of governing beyond the grave is the most ridiculous and insolent of all tyrannies. Man has no property in man, neither has one generation a property in the generations that are to follow.

In the first part of *Rights of Man* I have spoken of government by hereditary succession; and I will here close the subject with an extract from that work, which states it under the two following heads.

“ First, of the right of any family to establish itself with hereditary power.

“ Secondly,

“ Secondly, of the right of a nation to establish a particular family.

“ With respect to the first of those heads; that of a family establishing itself with hereditary powers on its own authority independent of the nation; all men will concur in calling it despotism; and it would be trespassing on their understanding to attempt to prove it.

“ But the second head; that of a nation; that is, of a generation for the time being; establishing a particular family with hereditary powers; it does not present itself as despotism on the first reflection; but if men will permit a second reflection to take place, and carry that reflection forward, even but one remove out of their own persons to that of their offspring; they will then see, that hereditary succession becomes the same despotism to others, which the first persons reprobated for themselves. It operates to preclude the consent of the succeeding generation, and the preclusion of consent is despotism.

“ In order to see this matter more clearly, let us consider the generation which undertakes to establish a family with hereditary powers, separately from the generations which are to follow.

“ The generation which first selects a person and puts him at the head of its government, either with the title of king, or any other nominal distinction, acts its own choice, as a free agent for itself, be that choice wise or foolish. The person so set up
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is *not hereditary*, but selected and appointed; and the generation which sets him up does not live under an hereditary government, but under a government of its own choice. Were the person so set up, and the generation who sets him up, to live for ever, it never could become hereditary succession, and of consequence, hereditary succession could only follow on the death of the first parties.

“ As therefore hereditary succession is out of the question with respect to the first generation, we have next to consider the character in which that generation acts towards the commencing generation, and to all succeeding ones.

“ It assumes a character to which it has neither right nor title; for it changes itself from a legislator to a testator, and affects to make a will and testament which is to have operation, after the demise of the makers, to bequeath the government; and it not only attempts to bequeath, but to establish on the succeeding generation a new and different form of government under which itself lived. Itself, as already observed, lived not under an hereditary government, but under a government of its own choice; and it now attempts, by virtue of a will and testament, which it has not authority to make, to take from the commencing generation, and from all future ones, the right and free agency by which itself acted.

“ In whatever light hereditary succession, as growing out of the will and testament of some former

former generation; presents itself, it is both criminal and absurd. A cannot make a will to take from B the property of B, and give it to C; yet this is the manner in which what is called hereditary succession by law operates. A certain generation makes a will, under the form of a law; to take away the rights of the commencing generation, and of all future generations, and convey those rights to a third person, who afterwards comes forward, and assumes the government in consequence of that illicit conveyance."

The history of the English parliament furnishes an example of this kind; and which merits to be recorded, as being the greatest instance of legislative ignorance and want of principle that is to be found in the history of any country. The case is as follows:—

The English parliament of 1688 imported a man and his wife from Holland, *William and Mary*, and made them king and queen of England. Having done this, the said parliament made a law to convey the government of the country to the heirs of William and Mary, in the following words, "We, the lords spiritual and temporal, and commons, do, in the name of the people of England, most humbly and faithfully submit *ourselves, our heirs, and posterities*, to William and Mary, *their heirs and posterities* for ever." And in a subsequent law, as quoted by Edmund Burke, the said parliament, in the name of the people of England then living,
binds

binds the said people, their heirs and posterities, to William and Mary, their heirs and posterities, to the end of time.

It is not sufficient that we laugh at the ignorance of such law-makers, it is necessary that we reprobate their want of principle. The constituent assembly of France (1789) fell into the same vice as the Parliament of England had done, and assumed to establish an hereditary succession in the family of the Capets, as an act of the constitution of that year. That every nation, *for the time being*, has a right to govern itself as it pleases, must always be admitted; but government by hereditary succession is government for another race of people, and not for itself; and as those on whom it is to operate are not yet in existence, or are minors, so neither is the right in existence to set it up for them, and to assume such a right is treason against the right of posterity.

I here close the arguments on the first head, that of government by hereditary succession; and proceed to the second, that of government by election and representation; or, as it may be concisely expressed, *representative government* in contra-distinction to *hereditary government*.

Reasoning by exclusion, if *hereditary government* has not a right to exist, and that it has not is proveable, *representative government* is admitted of course.

In contemplating government by election and representation we amuse not ourselves in inquiring when or how, or by what right it began. Its origin is ever in view. Man is himself the origin and the evidence of the right. It appertains to him in right of his existence, and his person is the title-deed.

The true and only true basis of representative government is equality of rights. Every man has a right to one vote, and no more, in the choice of representatives. The rich have no more right to exclude the poor from the right of voting or of electing and being elected than the poor have to exclude the rich; and wherever it is attempted, or proposed, on either side, it is a question of force, and not of right. Who is he that would exclude another?—That other has a right to exclude him.

That which is now called aristocracy implies an inequality of rights; but who are the persons that have a right to establish this inequality? Will the rich exclude themselves? No! Will the poor exclude themselves? No! By what right then can any be excluded? It would be a question, if any man, or class of men, have a right to exclude themselves; but be this at it may, they cannot have the right to exclude another. The poor will not delegate such a right to the rich, nor the rich to the poor, and to assume it is not only to assume arbitrary power, but to assume a right to commit robbery.

bery. Personal rights, of which the right of voting representatives is one, are a species of property of the most sacred kind; and he that would employ his pecuniary property, or presume upon the influence it gives him, to dispossess or rob another of his property of rights, uses that pecuniary property as he would use fire-arms, and merits to have it taken from him.

Inequality of rights is created by a combination in one part of the community to exclude another part from its rights. Whenever it be made an article of a constitution, or a law, that the right of voting, or of electing and being elected, shall appertain exclusively to persons possessing a certain quantity of property, be it little or much, it is a combination of the persons possessing that quantity, to exclude those who do not possess the same quantity. It is investing themselves with powers as a self-created part of society, to the exclusion of the rest.

It is always to be taken for granted, that those who oppose an equality of rights, never mean the exclusion should take place on themselves; and in this view of the case, pardoning the vanity of the thing, aristocracy is a subject of laughter. This self-soothing vanity is encouraged by another idea not less selfish, which is, that the opposers conceive they are playing a safe game, in which there is a chance to gain and none to lose; that at any rate the doctrine of equality includes *them*,

and that if they cannot get more rights than those whom they oppose and would exclude, they shall not have less. This opinion has already been fatal to thousands who, not contented with *equal rights*, have fought more till they lost all, and experienced in themselves the degrading *inequality* they endeavoured to fix upon others.

In any view of the case it is dangerous and impolitic, sometimes ridiculous, and always unjust, to make property the criterion of the right of voting. If the sum, or value of the property upon which the right is to take place be considerable, it will exclude a majority of the people, and unite them in a common interest against the government, and against those who support it, and as the power is always with the majority, they can overturn such a government and its supporters whenever they please.

If, in order to avoid this danger, a small quantity of property be fixed, as the criterion of the right, it exhibits liberty in disgrace, by putting it in competition with accident and insignificance. When a brood mare shall fortunately produce a foal or a mule, that by being worth the sum in question, shall convey to its owner the right of voting, or by its death take it from him, in whom does the origin of such a right exist? Is it in the man, or in the mule? When we consider how many ways property may be acquired without merit, and lost without a crime, we ought to
spurn

spurn the idea of making it a criterion of rights.

But the offensive part of the case is, that this exclusion from the right of voting implies a stigma on the moral character of the persons excluded; and this is what no part of the community has a right to pronounce upon another part. No external circumstance can justify it; wealth is no proof of moral character; nor poverty of the want of it. On the contrary, wealth is often the presumptive evidence of dishonesty; and poverty the negative evidence of innocence. If therefore property, whether little or much, be made a criterion, the means by which that property has been acquired, ought to be made a criterion also.

The only ground upon which exclusion from the right of voting is consistent with justice, would be to inflict it as a punishment for a certain time upon those who should propose to take away that right from others. The right of voting for representatives is the primary right by which other rights are protected. To take away this right is to reduce a man to a state of slavery, for slavery consists in being subject to the will of another, and he that has not a vote in the election of representatives, is in this case. The proposal therefore to disfranchise any class of men is as criminal as the proposal to take away property. When we speak of right, we ought always to unite with it the idea of duties; right becomes duties by reciprocity. The right which I enjoy becomes my duty to guarantee it to another, and he to me; and those

who violate the duty justly incur a forfeiture of the right.

In a political view of the case, the strength and permanent security of government is in proportion to the number of people interested in supporting it. The true policy therefore is to interest the whole by an equality of rights, for the danger arises from exclusions. It is possible to exclude men from the right of voting, but it is impossible to exclude them from the right of rebelling against that exclusion; and when all other rights are taken away, the right of rebellion is made perfect.

While men could be persuaded they had no rights, or that rights appertained only to a certain class of men, or that government was a thing existing in right of itself, it was not difficult to govern them authoritatively. The ignorance in which they were held, and the superstition in which they were instructed, furnished the means of doing it; but when the ignorance is gone, and the superstition with it; when they perceive the imposition that has been acted upon them; when they reflect that the cultivator and the manufacturer are the primary means of all the wealth that exists in the world, beyond what nature spontaneously produces; when they begin to feel their consequence by their usefulness, and their right as members of society, it is then no longer possible to govern them as before. The fraud once detected cannot be re-acted

acted. To attempt it is to provoke derision, or invite destruction.

That property will ever be unequal is certain. Industry, superiority of talents, dexterity of management, extreme frugality, fortunate opportunities, or the opposite, or the mean of those things, will ever produce that effect without having recourse to the harsh ill-sounding names of avarice and oppression; and beside this, there are some men who, though they do not despise wealth, will not stoop to the drudgery of the means of acquiring it, nor will be troubled with the care of it, beyond their wants or their independence; whilst in others there is an avidity to obtain it by every means not punishable; it makes the sole business of their lives, and they follow it as a religion. *All that is required with respect to property is to obtain it honestly, and not employ it criminally; but it is always criminally employed, when it is made a criterion for exclusive rights.*

In institutions that are purely pecuniary, such as that of a bank or a commercial company, the rights of the members composing that company are wholly created by the property they invest therein; and no other rights are represented in the government of that company, than what arise out of that property; neither has that government cognizance of *any thing but property.*

But the case is totally different with respect to the institution of civil government, organized on
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the system of representation. Such a government has cognizance of *every thing* and of *every man* as a member of the national society, whether he has property or not; and therefore the principle requires that *every man* and *every kind of right* be represented, of which the right to acquire and to hold property is but one, and that not of the most essential kind. The protection of a man's person is more sacred than the protection of property? and besides this, the faculty of performing any kind of work or service by which he acquires a livelihood, or maintains his family, is of the nature of property. It is property to him; he has acquired it; and it is as much the object of his protection, as exterior property, possessed without that faculty, can be the object of protection to another person.

I have always believed that the best security for property, be it much or little, is to remove from every part of the community, as far as can possibly be done, every cause of complaint, and every motive to violence? and this can only be done by an equality of rights. When rights are secure, property is secure in consequence. But when property is made a pretence for unequal or exclusive rights, it weakens the right to hold the property, and provokes indignation and tumult; for it is unnatural to believe that property can be secure under the guarantee of a society injured in its rights by the influence of that property.

Next

Next to the injustice and ill-policy of making property a pretence for exclusive rights, is the unaccountable absurdity of giving to mere *sound* the idea of property, and annexing to it certain rights; for what else is a *title* but *sound*. Nature is often giving to the world some extraordinary men who arrive at fame by merit and universal consent, such as Aristotle, Socrates, Plato, &c. These were truly great or noble. But when government sets up a manufactory of nobles, it is as absurd, as if she undertook to manufacture wise men. *Her nobles are all counterfeits.*

This wax-work order has assumed the name of aristocracy; and the disgrace of it would be lessened if it could be considered as only childish imbecility. We pardon foppery because of its insignificance, and on the same ground we might pardon the foppery of Titles. But the origin of aristocracy was worse than foppery. It was robbery: *The first aristocrates in all countries were brigands.* Those of latter times, sycophants.

It is very well known that in England, (and the same will be found in other countries) the great landed estates now held in descent were plundered from the quiet inhabitants at the conquest. The possibility did not exist of acquiring such estates honestly. If it be asked how they could have been acquired, no answer but that of robbery can be given. That they were not acquired by trade, by commerce, by manufactures, by agriculture,

or

or by any reputable employment is certain. How then were they acquired? Blush aristocracy to hear your origin, for your progenitors were Thieves. They were the Robespierres and the Jacobins of that day. When they had committed the robbery, they endeavoured to lose the disgrace of it, by sinking their real names under fictitious ones, which they called Titles. It is ever the practice of Felons to act in this manner.

As property honestly obtained is best secured by an equality of rights, so ill-gotten property depends for protection on a monopoly of rights. He who has robbed another of his property, will next endeavour to disarm him of his rights, to secure that property; for when the robber becomes the legislator he believes himself secure. That part of the government of England that is called the house of lords was originally composed of persons who had committed the robberies of which I have been speaking. It was an association for the protection of the property they had stolen.

But besides the criminality of the origin of aristocracy, it has an injurious effect on the moral and physical character of man. Like slavery, it debilitates the human faculties; for as the mind, bowed down by slavery, loses in silence its elastic powers, so, in the contrary extreme, when it is buoyed up by folly, it becomes incapable of exerting them, and dwindles into imbecility. It is impossible that
a mind

a mind employed upon ribbands and titles can ever be great. The childishness of the objects consumes the man.

It is at all times necessary, and more particularly so during the progress of a revolution, and until right ideas confirm themselves by habit, that we frequently refresh our patriotism by reference to first principles. It is by tracing things to their origin that we learn to understand them; and it is by keeping that line and that origin always in view that we never forget them.

An enquiry into the origin of rights will demonstrate to us, that *rights* are not *gifts* from one man to another, nor from one class of men to another; for who is he who could be the first giver? Or by what principle, or on what authority, could he possess the right of giving? A declaration of rights is not a creation of them, nor a donation of them. It is a manifest of the principle by which they exist, followed by a detail of what the rights are; for every civil right has a natural right for its foundation, and it includes the principle of a reciprocal guarantee of those rights from man to man. As therefore it is impossible to discover any origin of rights otherwise than in the origin of man, it consequently follows, that rights appertain to man in right of his existence only, and must therefore be equal to every man. The principle of an *equality of rights* is clear and simple. Every man can understand it, and it is by understanding his rights that

that he learns his duties ; for where the rights of men are equal, every man must finally see the necessity of protecting the rights of others as the most effectual security for his own. But if, in the formation of a constitution we depart from the principle of equal rights, or attempt any modification of it, we plunge into a labyrinth of difficulties, from which there is no way out but by retreating. Where are we to stop? Or by what principle are we to find out the point to stop at, that shall discriminate between men of the same country, part of whom shall be free, and the rest not? If property is to be made the criterion, it is a total departure from every moral principle of liberty, because it is attaching rights to mere matter, and making man the agent of that matter. It is moreover holding up property as an apple of discord, and not only exciting but justifying war against it; for I maintain the principle, that when property is used as an instrument to take away the rights of those who may happen not to possess property, it is used to an unlawful purpose, as fire-arms would be in a similar case.

In a state of nature all men are equal in rights, but they are not equal in power; the weak cannot protect himself against the strong. This being the case, the institution of civil society is for the purpose of making an equalization of powers that shall be parallel to, and a guarantee of the equality of rights. The laws of a country when properly

perly constructed apply to this purpose. Every man takes the arm of the law for his protection as more effectual than his own; and therefore every man has an equal right in the formation of the government and of the laws by which he is to be governed and judged. In extensive countries and societies, such as America and France, this right, in the individual can only be exercised by delegation, that is, by election and representation; and hence it is that the institution of representative government arises.

Hitherto I have confined myself to matters of principle only. First, that hereditary government has not a right to exist; that it cannot be established on any principle of right; and that it is a violation of all principle. Secondly, that government by election and representation has its origin in the natural and eternal rights of man; for whether a man be his own law-giver, as he would be in a state of nature; or whether he exercises his portion of legislative sovereignty in his own person, as might be the case in small democracies where all could assemble for the formation of the laws by which they were to be governed; or whether he exercises it in the choice of persons to represent him in a national assembly of representatives, the origin of the right is the same in all cases. The first, as is before observed, is defective in power; the second, is practicable only in democracies of
in all

small extent; the third is the greatest scale upon which human government can be instituted.

Next to matters of *principle*, are matters of *opinion*, and it is necessary to distinguish between the two. Whether the rights of men shall be equal is not a matter of opinion but of right, and consequently of principle; for men do not hold their rights as grants from each other, but each one in right of himself. Society is the guardian but not the giver. And as in extensive societies, such as America and France, the right of the individual, in matters of government, cannot be exercised but by election and representation; it consequently follows, that the only system of government, consistent with principle, where simple democracy is impracticable, is the representative system. But as to the organical part, or the manner in which the several parts of government shall be arranged and composed, it is altogether *matter of opinion*. It is necessary that all the parts be conformable with the *principle of equal rights*; and so long as this principle be religiously adhered to, no very material error can take place, neither can any error continue long in that part that falls within the province of opinion.

In all matters of opinion, the social compact, or the principle by which society is held together, requires that the majority of opinions becomes the rule for the whole, and that the minority yields practical obedience thereto. This is perfectly

fectly conformable to the principle of equal rights; for, in the first place, every man has a *right to give an opinion*, but no man has a right that his opinion should *govern the rest*. In the second place, it is not supposed to be known before-hand on which side of any question, whether for or against, any man's opinion will fall. He may happen to be in a majority upon some questions, and in a minority upon others; and by the same rule that he expects obedience in the one case, he must yield it in the other. All the disorders that have arisen in France during the progress of the revolution have had their origin, not in the *principle of equal rights*, but in the violation of that principle. The principle of equal rights has been repeatedly violated, and that not by the majority, but by the minority, and *that minority has been composed of men possessing property, as well as of men without property; property therefore, even upon the experience already had, is no more a criterion of character than it is of rights*. It will sometimes happen that the minority are right, and the majority are wrong, but as soon as experience proves this to be the case, the minority will increase to a majority, and the error will reform itself by the tranquil operation of freedom of opinion and equality of rights. Nothing therefore can justify an insurrection, neither can it ever be necessary, where rights are equal and opinions free.

Taking

Taking then the principle of equal rights as the foundation of the revolution, and consequently of the constitution, the organical part, or the manner in which the several parts of the government shall be arranged in the constitution, will, as is already said, fall within the province of opinion.

Various methods will present themselves upon a question of this kind, and though experience is yet wanting to determine which is the best, it has, I think, sufficiently decided which is the worst. That is the worst, which in its deliberations and decisions is subject to the precipitancy and passion of an individual; and when the whole legislature is crowded into one body, it is an individual in mass. In all cases of deliberation it is necessary to have a corps of reserve, and it would be better to divide the representation by lot into two parts, and let them revise and correct each other, than that the whole should sit together and debate at once.

Representative government is not necessarily confined to any one particular form. The principle is the same in all the forms under which it can be arranged. The equal rights of the people is the root from which the whole springs, and the branches may be arranged as present opinion or future experience shall best direct. As to that *hospital of incurables* (as Chesterfield calls it) the British House of Peers, it is an excrescence
growing

growing out of corruption; and there is no more affinity or resemblance between any of the branches of a legislative body originating from the rights of the people, and the aforesaid house of peers, than between a regular member of the human body and an ulcerated wen.

As to that part of government that is called the *executive*, it is necessary in the first place to fix a precise meaning to the word.

There are but two divisions into which power can be arranged. First, that of willing or decreeing the laws; secondly, that of executing, or putting them in practice. The former corresponds to the intellectual faculties of the human mind, which reasons and determines what shall be done; the second, to the mechanical powers of the human body, that puts that determination into practice. If the former decides, and the latter does not perform, it is a state of imbecility; and if the latter acts without the pre-determination of the former, it is a state of lunacy. The executive department therefore is official, and is subordinate to the legislative, as the body is to the mind in a state of health; for it is impossible to conceive the idea of two sovereignties, a sovereignty to *will*, and a sovereignty to *act*. The executive is not invested with the power of deliberating whether it shall act or not; it has no discretionary authority in the case; for it can *act no other thing* than what

the laws decree, and it is *obliged* to act conformably thereto; and in this view of the case, the executive is made up of all the official departments that execute the laws, of which, that which is called the judiciary is the chief.

But mankind have conceived an idea that *some kind of authority* is necessary to *superintend* the execution of the laws, and to see that they are faithfully performed; and it is by confounding this superintending authority with the official execution, that we get embarrassed about the term *executive power*.—All the parts in the government of the united states of America that are called the THE EXECUTIVE, are no other than authorities to superintend the execution of the laws; and they are so far independent of the legislative, that they know the legislative only through the laws, and cannot be controuled or directed by it through any other medium.

In what manner this superintending authority shall be appointed or composed, is a matter that falls within the province of opinion. Some may prefer one method and some another; and in all cases, where opinion only, and not principle, is concerned, the majority of opinions forms the rule for all. There are however some things deducible from reason, and evinced by experience, that serve to guide our decision upon the case. The one is, never to invest any individual with extraordinary power; for besides his being
- tempted

tempted to misuse it, it will excite contention and commotion in the nation for the office. Secondly, never to invest power long in the hands of any number of individuals. The inconveniences that may be supposed to accompany frequent changes, are less to be feared than the danger that arises from long continuance.

I shall conclude this discourse with offering some observations on the means of *preserving liberty*; for it is not only necessary that we establish it, but that we preserve it.

It is, in the first place, necessary that we distinguish between the means made use of to overthrow despotism, in order to prepare the way for the establishment of liberty, and the means to be used after the despotism is overthrown.

The means made use of in the first case are justified by necessity. Those means are in general insurrections; for whilst the established government of despotism continues in any country it is scarcely possible than any other means can be used. It is also certain that in the commencement of a revolution, the revolutionary party permit to themselves a *discretionary exercise of power* regulated more by circumstances than by principle, which were the practice to continue, liberty would never be established, or if established would soon be overthrown. It is

never to be expected in a revolution, that every man is to change his opinion at the same moment. There never yet was any truth or any principle so irresistibly obvious, that all men believed it at once. Time and reason must cooperate with each other to the final establishment of any principle; and therefore those who may happen to be first convinced have no right to persecute others, on whom conviction operates more slowly. The moral principle of revolutions is to instruct; not to destroy.

Had a constitution been established two years ago (as ought to have been done) the violences that have since desolated France, and injured the character of the revolution, would, in my opinion, have been prevented. The nation would then have been a bond of union, and every individual would have known the line of conduct he was to follow. But instead of this, a revolutionary government, a thing without either principle or authority, was substituted in its place; virtue and crime depended upon accident; and that which was patriotism one day became treason the next. All these things have followed from the want of a constitution; for it is the nature and intention of a constitution to *prevent governing by party*, by establishing a common principle that shall limit and controul the power and impulse of party, and that says to all parties, **THUS FAR SHALT THOU GO AND NO FARTHER.**

FARTHER. But in the absence of a constitution men look entirely to party; and instead of principle governing party, party governs principle.

An avidity to punish is always dangerous to liberty. It leads men to stretch, to misinterpret, and to misapply even the best of laws. He that would make his own liberty secure, must guard even his enemy from oppression; for if he violates this duty, he establishes a precedent that will reach to himself.

THOMAS PAINE.

SPEECH OF THOMAS PAINE,

JULY 7th, 1795,

IN THE CONVENTION.

The Translation of which was read by CITIZEN
LANTHENAS.

ON THE CONSTITUTION.

ON the motion of LANTHENAS, "that permission be granted to THOMAS PAYNE, to deliver his sentiments on the declaration of rights, and the constitution."

THOMAS PAINE ascended the tribune, and no opposition being made to the motion, one of the secretaries who stood by Mr. PAINE read his speech, of which the following is a literal translation from "*La Gazette Nationale, ou Moniteur Universel*."

"CITIZENS, the effects of a malignant fever with which I was afflicted during a rigorous confinement in the *Luxembourg*, have thus long prevented

vented me from attending at my post in the bosom of the convention, and the magnitude of the subject under discussion, and no other consideration on earth could induce me now to repair to my station.

“ A recurrence to the vicissitudes I have experienced, and the critical situations in which I have been placed in consequence of the French revolution, will throw upon what I now propose to submit to the convention, the most unequivocal proofs of my integrity, and the rectitude of those principles which have uniformly influenced my conduct.

“ In England I was proscribed for having vindicated the French revolution, and I have suffered a rigorous imprisonment in France, for having pursued a similar mode of conduct. During the reign of terrorism, I was a close prisoner for eight long months, and remained so above three months after the æra of the 10th Thermidor. I ought, however, to state, that I was not prosecuted by the PEOPLE, either of England or of France. The proceedings in both countries were the effects of the despotism existing in their respective governments. But even if my persecution had originated in the people at large, my principles and conduct would still have remained the same. Principles which are influenced and subject to the controul of tyranny, have not their foundation in the heart.

“ A few days ago I transmitted to you, in the ordinary mode of distribution, a short treatise, entitled, “ A Dissertation on the First Principles of Government.” This little work I did intend to have dedicated to the people of Holland, who, about the time I began to write it, were determined to
accomplish

accomplish a revolution in their government, rather than to the people of France, who had long before effected that glorious object. But there are, in the constitution, which is about to be ratified by the convention, certain articles, and in the report which preceded it, certain points, so repugnant to reason, and incompatible with the true principles of liberty, as to render this treatise, drawn up for another purpose, applicable to the present occasion, and under this impression I presumed to submit it to your consideration.

If there be faults in the constitution, it were better to expunge them now, than to abide the event of their mischievous tendency; for certain it is, that the plan of constitution which has been presented to you, is not consistent with the grand object of the revolution, nor congenial to the sentiments of the individuals who accomplished it.

“ To deprive half the people in a nation of their rights as citizens, is an easy matter in theory or on paper; but it is a most dangerous experiment, and rarely practicable in the execution.

“ I shall now proceed to the observations I have to offer on this important subject, and pledge myself that they shall be neither numerous nor diffusive.

“ In my apprehension, a constitution embraces two distinct parts or objects, the *principle* and the *practice*; and it is not only an essential, but an indispensable provision that the practice should emanate from, and accord with the principle. Now, I maintain, that the converse of this proposition is the

the case in the plan of constitution under discussion. The first article, for instance, of the POLITICAL STATE of citizens, (V. TITLE II. OF THE CONSTITUTION) says,

“ Every man born and resident in France, who, being twenty-one years of age, has inscribed his name on the civic register of his canton, and who has lived afterwards one year on the territory of the republic, and who pays any direct contribution whatsoever, real or personal, is a French Citizen.”

I might here ask, if those only who come under the above description are to be considered as citizens, what designation do you mean to give the rest of the people? I allude to that portion of the people on whom the principal part of the labour falls, and on whom the weights of indirect taxation will in the event chiefly press. In the structure of the social fabric, this class of people are infinitely superior to that privileged order, whose only qualification is their wealth or territorial possessions. For what is trade without merchants? What is land without cultivation? And what is the produce of the land without manufactures? But to return to the subject.

“ In the first place, this article is incompatible with the three first articles of the declaration of rights, which precedes the constitutional act.

“ The first article of the declaration of rights, says :

“ The

" The end of society is the public good, and the institution of government is to secure to every individual the enjoyment of his rights.

But the article of the constitution, to which I have just adverted, proposes as the object of society, not the public good, or, in other words, the good of all, but a partial good, or the good only of a few ; and the constitution provides solely for the rights of this few to the exclusion of the many.

The second article of the declaration of rights, says :

" The rights of man in society are liberty, equality, security of his person and property."

But the article alluded to in the constitution, has a direct tendency to establish the converse of this position, in as much as the persons excluded by this *inequality*, can neither be said to possess liberty, nor security against oppression. They are consigned totally to the caprice and tyranny of the rest.

The third article of the declaration of rights, says :

" Liberty consists in acts of volition as are not injurious to others."

But the article of the constitution on which I have observed, breaks down this barrier. It enables the liberty of one part of society to destroy the freedom of the other.

Having

Having thus pointed out the inconsistency of this article to the declaration of rights, I shall proceed to comment on that part of the same article, which makes a direct contribution a necessary qualification to the right of citizenship.

A modern refinement on the object of public revenue, has divided the taxes, or contributions, into two classes, the *direct* and the *indirect*, without being able to define precisely or distinctly the difference between them, because the effect of both is the same.

Those are designated indirect taxes which fall upon the consumers of certain articles on which the tax is imposed, because the tax being included in the price, the customer pays it without taking notice of it.

The same observation is applicable to the territorial tax. The land proprietors, in order to reimburse themselves, will rack-rent their tenants. The farmer, of course, will transfer the obligation to the miller, by enhancing the price of grain; the miller to the baker, by encreasing the price of flour; and the baker to the consumer, by raising the price of bread. The territorial tax, therefore, though called *direct*, is in its consequences *indirect*.

To this tax the land proprietor contributes only in proportion to the quantity of bread and other provisions that are consumed in his own family. The deficit is furnished by the great mass of the community which comprehends every individual of a nation.

From

From the logical distinction between direct and indirect taxation some emolument may result, I allow, to auditors of public accounts, &c. &c. but to the people at large I deny, that such a distinction (which by the bye is without a difference) can be productive of any practical benefit. It ought not, therefore, to be admitted as a principle in the constitution.

Besides this objection, the provisions in question does not affect to define, secure, or establish the right of citizenship. It consigns to the caprice or discretion of the legislature the power of pronouncing, who shall, or shall not exercise the functions of a citizen; and this may be done effectually, either by the imposition of a *direct* or *indirect* tax, according to the selfish views of the legislators, or by the mode of collecting the taxes so imposed. Neither a tenant who occupies an extensive farm, nor a merchant or manufacturer, who may have embarked a large capital in their respective pursuits can ever, according to this system, attain the pre-emption of a citizen. On the other hand, any upstart, who has, by succession or management, got possession of a few acres of land, or a miserable tenement, may exultingly exercise the functions of a citizen, although perhaps he neither possesses a hundredth part of the worth or property of a simple mechanic, nor contributes in any proportion to the exigencies of the state.

The contempt in which the old government held mercantile pursuits, and the obloquy that attached on merchants and manufacturers, contributed not a little to its embarrassments, and its eventual sub-
version

version: and, strange to tell, though the mischiefs arising from this mode of conduct are so obvious, yet an article is proposed for your adoption, which has a manifest tendency to restore a defect, inherent in the monarchy.

I shall now proceed to the second article of the same title, with which I shall conclude my remarks.

The second article says, "every French soldier who shall have served one or more campaigns in the cause of liberty, is deemed a citizen, of the republic, without any respect or reference to other qualifications."

It should seem that in this article, the committee were desirous of extricating themselves from a dilemma into which they had been plunged by the preceding article. When men depart from an established principle, they are compelled to resort to trick and subterfuge, always shifting their means to preserve the unity of their objects; and as it rarely happens that the first expedients make amends for the prostitution of principle, they must call in aid a second of a more flagrant nature to supply the deficiency of the former. In this manner legislators go on, accumulating error upon error, and artifice upon artifice, until the mass becomes so bulky and incongruous, and their embarrassment so desperate, that they are compelled, as their last expedient, to resort to the very principle they had violated. The committee were precisely in this predicament, when they framed this article, and to me, I must confess, their conduct appears specious rather than efficacious.

It

It was not for himself alone, but for his family, that the French citizen, at the dawn of the revolution, (for then indeed every man was considered a citizen) marched soldier-like to the frontiers, and repelled a foreign invasion. He had it not in his contemplation, that he should enjoy liberty for the residue of his earthly career, and by his own act preclude his offspring from that inestimable blessing. No,—He wished to leave it as an inheritance to his children, and that they might hand it down to their latest posterity. If a Frenchman, who united in his person the character of a soldier and a citizen was now to return from the army to his peaceful habitation, he must address his small family in this manner: “Sorry I am that I cannot leave to you a small portion of what I have acquired by exposing my person to the ferocity of our enemies, and defeating their machinations. I have established the republic, and, painful the reflection, all the laurels I have won in the field are blasted, and all the privileges to which my exertions have entitled me, extend not beyond the period of my own existence!” Thus the measure that has been adopted by way of subterfuge, falls short of what the framers of it speculated upon; for in conciliating the affections of the *Soldier*, they have subjected the *Father* to the most pungent sensations, by obliging him to adopt a generation of slaves.

“Citizens, a great deal has been urged respecting insurrections. I am confident no man has a greater abhorrence of them than myself, and I am sorry that any insinuations should have been thrown out upon me as a promoter of violence of any kind. The whole tenour of my life

life and conversation gives the lie to those calumnies, and proves me to be a friend to order, truth and justice.

“ I hope you will attribute this effusion of my sentiments, to my anxiety for the honour and success of the revolution. I have no interest distinct from that which has a tendency to meliorate the situation of mankind. The revolution, as far as it respects myself, has been productive of more loss and persecution than is possible for me to describe, or for you to indemnify. But with respect to the subject under consideration, I could not refrain from declaring my sentiments. In my opinion, if you subvert the basis of the revolution, if you dispence with principles and substitute expedients, you will extinguish that enthusiasm and energy which have hitherto been the life and soul of the revolution; and you will substitute in its place nothing but a cold indifference and self-interest, which will again degenerate into intrigue, cunning, and effeminacy.

“ But to discard all considerations of a personal and-subordinate nature, it is essential to the well-being of the republic, that the practical or organic part of the constitution should correspond with its principles; and as this does not appear to be the case in the plan that has been presented to you, it is absolutely necessary that it should be submitted to the revision of a committee, who should be instructed to compare it with the declaration of rights, in order to ascertain the difference between the two, and to make such alterations as shall render them perfectly consistent and compatible with each other.”



